

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 06-CR-19

-vs-

TIMOTHY QUINN,

Defendant.

DECISION AND ORDER

Timothy Quinn (“Quinn”) was sentenced to a non-guideline sentence of 260 months, despite an advisory sentencing range of 292-365 months. On June 9, 2008, the Court issued a Decision and Order which denied Timothy Quinn’s (“Quinn”) motion for reduction of his sentence, 18 U.S.C. § 3582(c)(2), pursuant to the amendments that lowered the base offense levels for cocaine base offenses. The Court originally imposed a non-guideline sentence pursuant to 18 U.S.C. § 3553(a) and *United States v. Booker*, so the sentencing guidelines advise that a “further reduction generally would not be appropriate.” U.S.S.G. § 1B1.10(b)(2). “Quinn fails to provide a compelling reason why the Court ought to depart from the Guidelines’ recommendation to not further reduce his sentence, so his motion for a reduction of sentence is denied.” Decision and Order at 3.

Quinn now moves for reconsideration, claiming that there are compelling reasons to further reduce his sentence. Quinn argues that the Court made an erroneous base offense level determination at his original sentencing, so he should not have been classified as a

career offender. However, any error that was committed at the original sentencing cannot form the basis for re-sentencing under § 3582(c)(2). To determine whether a reduction of sentence is warranted pursuant to the subsequent lowering of a guideline range, the Court “must substitute the amended guideline range for the originally applied guideline range and determine what sentence it would have imposed. In undertaking this first step, only the amended guideline range is changed. *All other guideline application decisions made during the original sentencing remain intact.*” *United States v. Vautier*, 144 F.3d 756, 760 (11th Cir. 1998) (emphasis added).

Quinn’s motion [D. 46] is **DENIED**.

Dated at Milwaukee, Wisconsin, this 19th day of November, 2009.

SO ORDERED,

s/ Rudolph T. Randa
HON. RUDOLPH T. RANDA
U.S. District Judge